

JUDICIAL CODE
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SMALL CLAIMS DIVISION OF THE TRIBAL COURT

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ARTICLE 4

SMALL CLAIMS DIVISION OF THE TRIBAL COURT

[NOTE: Except as otherwise noted, the provisions of Article 4 of the Judicial Code were enacted on March 10, 1984 by Ordinance No. 84-1.]

CHAPTER 1. GENERAL PROVISIONS

Section 4-101. Establishment.

There is established in the Tribal Court of the Colorado River Indian Tribes a division designated as the small claims division.

Section 4-102. Jurisdiction.

The small claims division has concurrent original jurisdiction with the Tribal Court in all civil actions, excluding actions brought under the Domestic Relations Code of the Colorado River Indian Tribes, in which the debt, damage, tort, injury or value of the claims either by the plaintiff or defendant plaintiff does not exceed One Thousand Dollars (\$1,000.00), exclusive of interest and costs, and in actions in which a party seeks to disaffirm, avoid or rescind a contract, or seeks equitable relief, and the amount at issue does not exceed One Thousand Dollars (\$1,000.00).

Section 4-103. Transfer to Tribal Court.

If any person whose rights are or may be adjudicated by an action in the small claims division objects to the proceedings being held in the small claims division and makes a written request for transfer within ten (10) days of initiation or service of an action, the action shall be transferred from the small claims division to the Tribal Court and the provisions relating to civil actions in the Tribal Court shall apply.

Section 4-104. Judges.

Any judge of the Tribal Court may sit as a judge of the small claims division.

CHAPTER 2. PLEADINGS AND PROCEDURE

Section 4-201. Parties; Representation.

(A) Any natural person, corporation, partnership, association, or other organization may commence or defend a small claims action.

(B) Any party to a small claims action may be represented by counsel as provided in the Law and Order Code. Attorneys fees awarded by the court in a small claims action shall not exceed One Hundred Dollars (\$100.00).

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Section 4-202. Method of Service.

(A) In addition to any other available methods of service, the plaintiff may serve the summons and complaint by registered or certified mail. Service is deemed complete upon the filing with the clerk of the return receipt signed by the defendant. If the defendant cannot be served by registered or certified mail, personal or other alternative service may be used.

(B) If service is made by the plaintiff, no charge therefor shall be made by the court. If service is made by the court, a fee of Five Dollars (\$5.00) shall be charged for such service. No more than Five Dollars (\$5.00) shall be charged, regardless of the number of persons served.

Section 4-203. Time for Answer.

The time in which the summons shall require defendant to answer is in all cases twenty (20) days, commencing from the date of service.

Section 4-204. Setting of Trials; Failure to Appear; Continuances.

(A) Upon the filing of an answer by the defendant, the clerk shall set the action for hearing. The clerk shall notify the parties of the time and place of the hearing.

(B) Any party failing to appear at the time for hearing risks have an appropriate judgment entered against such party.

(C) Continuances of hearings shall be granted only for compelling reasons.

Section 4-205. Procedure.

(A) Notwithstanding any other provision of the laws of the Colorado River Indian Tribes, a small claims division judge shall conduct hearings in such a manner as to do justice between the parties and shall not be bound by formal rules of procedure, pleading or evidence except for statutory provisions relating to privileged communications. Any evidence deemed material, relevant and competent may be admitted, except that written evidentiary material shall be excluded unless the proponent has furnished the opposing side with a copy of such material at least forty-eight (48) hours prior to the hearing date set.

(B) Discovery proceedings shall not be used in the small claims division.

Section 4-206. Counterclaims Exceeding Jurisdiction; Procedures.

(A) In any action where a counterclaim is asserted and the amount involved in the counterclaim exceeds the jurisdictional amount of the small claims division, the court shall at once terminate the designation as a small claim action, and the action shall proceed in the Tribal Court in accordance with the rules relating to all other civil actions.

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(B) If, at any stage during the proceedings subsequent to the termination of the small claims designation as provided in Subsection (A), the judge determines that the amount actually involved in the counterclaim is not in excess of the jurisdictional amount of the small claims division, the action may be either reinstated in the small claims division civil docket as a designated small claim action or may remain in the Tribal Court civil docket as a regular civil action.

Section 4-207. Jury Trials Prohibited.

There is no right to a jury in the small claims division.

Section 4-208. Appeal.

Any party may appeal a judgment or order of the small claims division to the Appeals Court in the manner provided by the Law and Order Code.

Section 4-209. Other Procedures/Notice to Public.

(A) Notwithstanding any other provision of the Laws of the Colorado River Indian Tribes, the Chief Judge and the Associate Judges of the Tribal Court may establish and publish written rules of procedure for the conduct of small claims actions which are not inconsistent with the provisions of this Article.

(B) The Tribal Court shall provide to the public a small claims division brochure outlining the procedures of the division in lay terms.

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